

IN THE SENATE OF THE UNITED STATES.

JUNE 10, 1858.—Ordered to be printed.

Mr. MALLORY made the following

REPORT.

[To accompany Bill S. 450.]

The Committee on Naval Affairs, to whom was referred the petition of Hiram McCullough, have had the same under consideration, and report:

That Samuel A. West and George McCullough contracted with the United States, on the 17th of November, 1856, to deliver at the navy yard at Gosport, Virginia, certain quantities of stone: one-fourth in ninety, one-fourth in one hundred and fifty, and one-fourth in one hundred and eighty days, and the balance within pine months from the date of the contract; and that if the parties failed to deliver at the times specified, they should forfeit and pay to the government a sum of money equal to twice the amount of the contract price agreed upon as the price to be paid in case of the actual delivery thereof.

From the letter of the chief of the Bureau of Yards and Docks, communicated to your committee in response to a call upon the Navy Department for information in regard to the facts involved in this case, it appears that none of the stone contracted for by said West and McCullough was delivered, and that the department "was compelled to procure it by open purchase, at an advance of some \$20,000 on the amount at which the contractors had agreed to furnish." The chief of the bureau, however, states that "the offer of West and McCullough, on which their contract was based, was \$11,232 16 less than the next lowest bidder, and at rates so much below the current market prices of the article that the bureau believed at the time that they would not be able to comply with their engagements; but as they gave satisfactory security for the fulfilment of the terms of the contract, the bureau could exercise no discretion in the matter, the law imperatively requiring all contracts to be given to the lowest bidder."

It further appears, from the affidavits of five creditable persons conversant with the facts and filed with the papers in this case, that the contractors promptly proceeded toward the execution of their agree-

ment, by erecting the necessary machinery for loading vessels, and in quarrying the stone, but that the violent and unusual freshets that prevailed and continued in the Susquehanna river during the winter and spring of 1856 and 1857, carrying with them immense masses of ice, completely destroyed the cranes and derricks erected by them, the wharves and the bridge between the quarries and the river, and rendered physically impossible the fulfilment of their contract.

Your committee, therefore, believing that the agreement of these parties was entered into in good faith, and from the evidence that they sustained heavy losses in the destruction of their works by the freshets during that season, large sums of which were at various times advanced by your petitioner, and, as he alleges, never repaid by said contractors, who are poor, and the probable ruinous effect the enforcement of the penalty of said contract would have upon the sureties, are of opinion that Congress should accord the relief prayed, report the accompanying bill, with a recommendation that it do pass.